

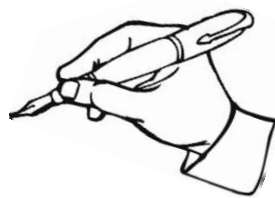
The Ainsworth Unit Bulletin

Welcome Back

Welcome back to the 3rd edition of *The Ainsworth Unit Bulletin*, a newsletter designed to encourage two-way communication throughout the study of the proposed Ainsworth Title Transfer and to provide a schedule of events, summary of activities, and progress updates. Since the last newsletter, we have received correspondence from some of you with questions and/or concerns which will be addressed in this newsletter. Before moving on to these though, let's address the recurring questions concerning the preparation of the environmental document for this project.

FROM THE DESK OF JILL MANRING...

As the Bureau of Reclamation's (Reclamation) team lead for preparing the Ainsworth Title Transfer National Environmental and Policy Act (NEPA) document, I'd like to provide you with some background information concerning NEPA and how the level of NEPA compliance is determined. The NEPA process discloses the direct, indirect, and cumulative effects that proposed actions could have on physical, biological, social, and economic resources. Before Reclamation can prepare the environmental document we need to determine the appropriate level of NEPA compliance.



HOW IS THE LEVEL OF NEPA DETERMINED?

The level of NEPA compliance required for a proposed action depends on the extent of impacts anticipated to result from the proposal. For many federal actions, the appropriate level of NEPA compliance is evident. For example, some routine operation and maintenance activities having little or no environmental impact may qualify for a categorical exclusion (CE). Others like construction of a major dam and reservoir would require an environmental impact statement (EIS). An EA is written for any action in which the significance of the effects is uncertain and no categorical exclusion exists for the action.

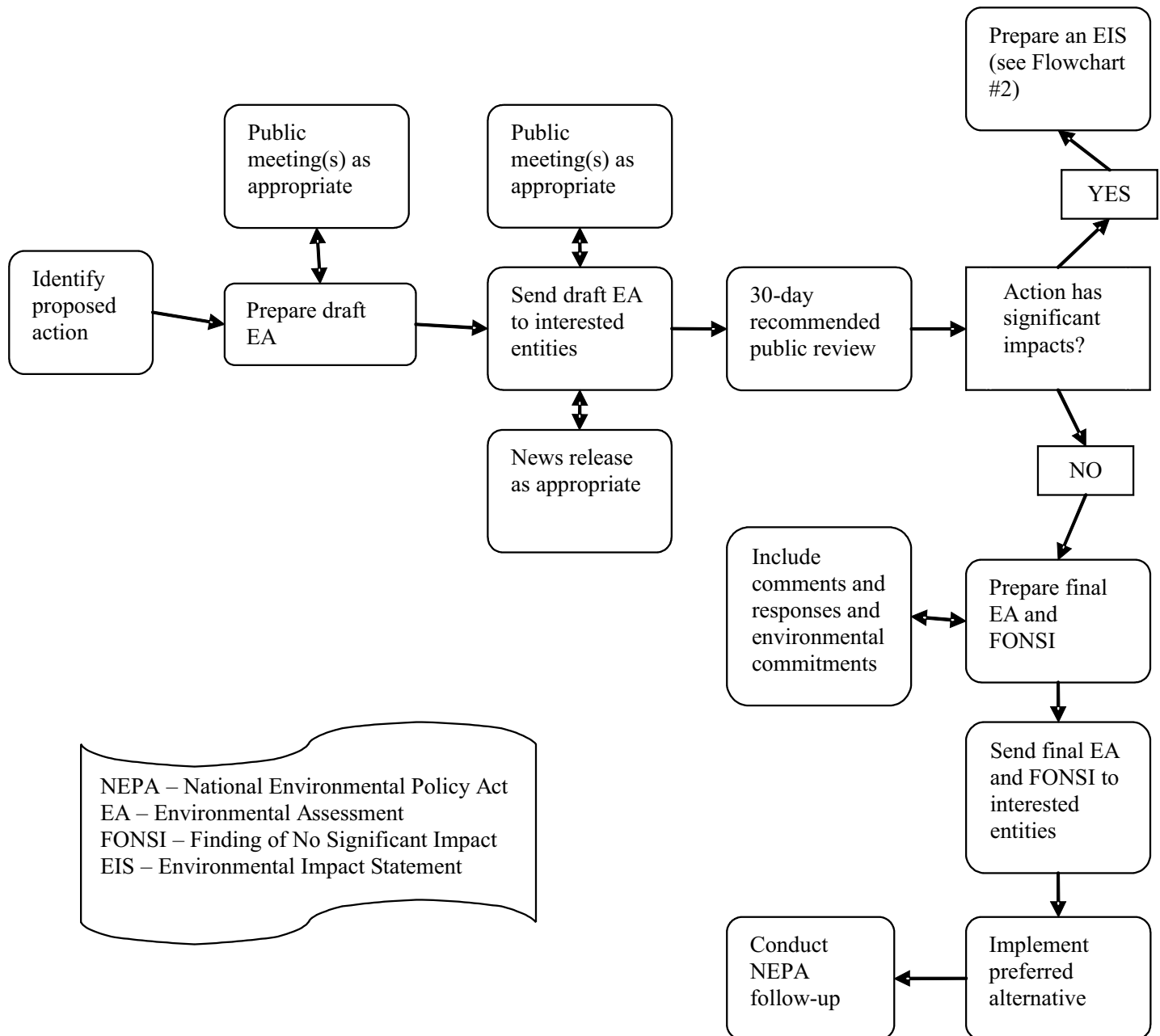
Categorical Exclusions (CE): The first level of NEPA compliance is a CE. Actions which routinely do not individually or cumulatively have a significant effect on the quality of the human environment may be categorically excluded. A CE excludes certain Federal actions from further NEPA documentation because the actions have been determined in a public process to have no significant effect on the environment nor do they involve unresolved conflicts concerning alternative uses of available resources. A categorical exclusion checklist (CEC) is completed to determine if the proposed action meets the criteria for being categorically excluded. If the proposed action cannot be categorically excluded, an EA or an EIS must be prepared.

Environmental Assessment (EA): The compliance document for the next level of NEPA is an EA.

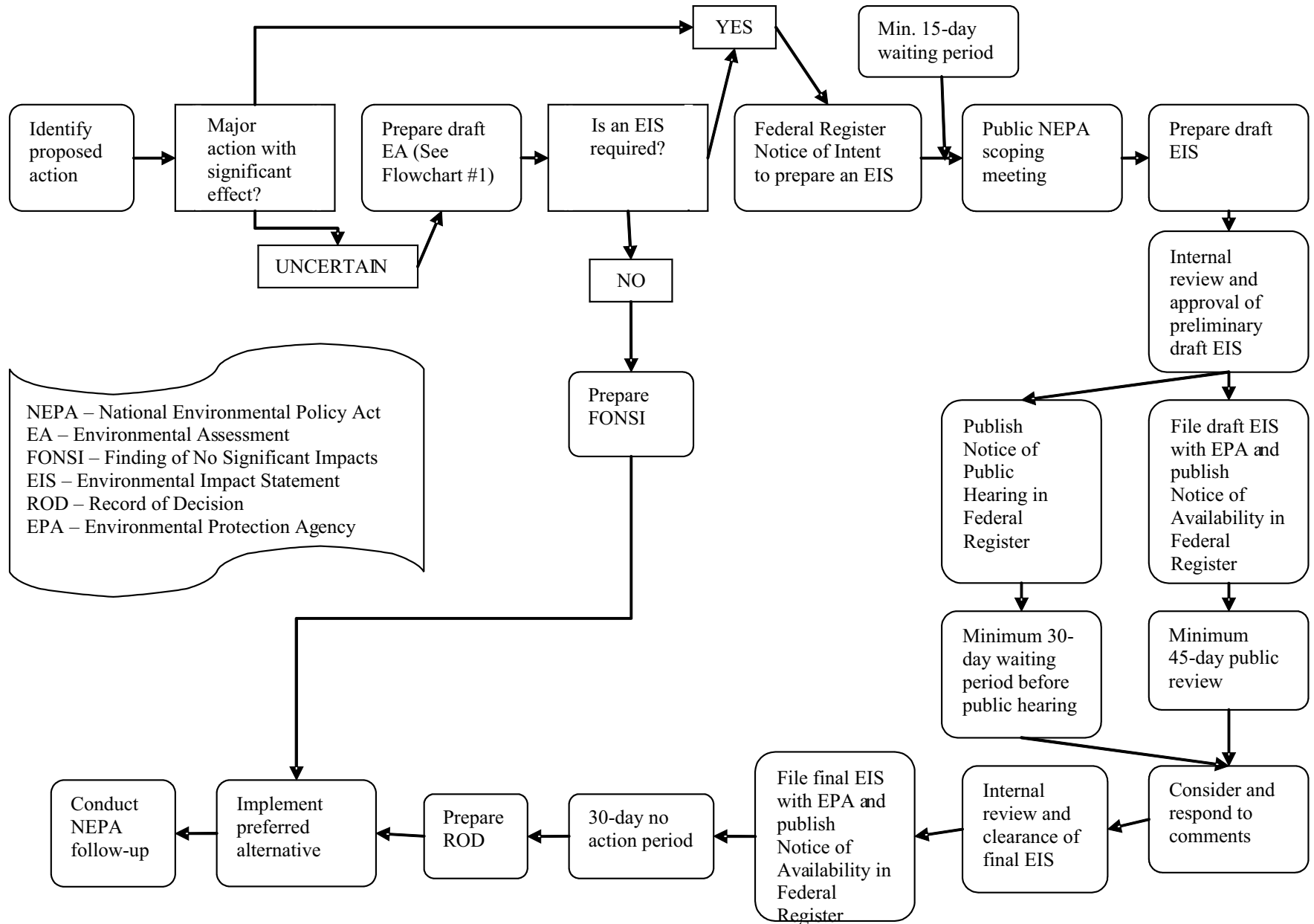
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Environmental Assessment Process



Environmental Impact Statement Process



An EA is a brief and concise document which evaluates and discloses the effects Federal actions could have on the quality of the human environment. The word “environment” takes into account aspects of various resources including economic, social, fish and wildlife, recreational, and cultural resources. An EA describes the purpose of, and need for, an action; the proposed action; a range of reasonable alternatives; existing conditions; the environmental consequences of the alternatives; and consultation and coordination activities. The level of complexity of the proposal dictates the level of public participation in the EA process.

“The EA provides sufficient evidence and analysis for determining whether...it will be necessary to elevate to an EIS.”

The EA provides sufficient evidence and analysis to determine whether a Finding of No Significant Impact (FONSI) can be prepared or whether it will be necessary to elevate to an EIS. As stated in the draft NEPA handbook regarding preparation of EAs, “The decision to conduct the next level of evaluation (an EIS) can be made any time there is enough information to indicate that significant impacts may occur or that sufficient controversy (factual disputes) about the impacts exist. Opposition to a proposed action does not necessarily mean there is sufficient controversy.” Many times mitigation measures are taken to minimize significant impacts of a proposal to the point that they are no longer significant. If during the EA process indications are that the proposed action would result in significant, unmitigated environmental impacts, the action needs to be elevated to the next higher level of NEPA, requiring that an EIS be prepared. Significant unmitigated environmental impacts could include such things as jeopardizing the continued existence of a threatened or endangered species, loss of critical or unique habitat, and loss of prime agricultural lands.

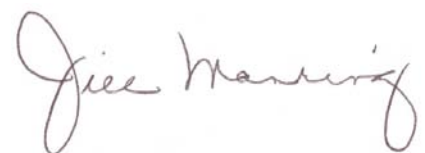
Finding Of No Significant Impact (FONSI): A FONSI is defined as a “. . . decision document prepared by a Federal agency that briefly presents reasons why an action will not have a significant effect on the human environment and for which an EIS therefore will not be prepared (40 CFR 1508.13).”

Environmental Impact Statement (EIS): An EIS is required for major Federal actions that will have significant environmental effects. In addition to the information contained in an EA, an EIS also contains, if applicable, an analysis of direct and indirect impacts, a discussion of cumulative and unavoidable impacts, irreversible and irretrievable commitment of resources, environmental commitments and mitigation measures. The public is invited to participate in the development of the EIS by helping identify environmental issues and reviewing and commenting on the draft EIS. The decision making document prepared for an EIS is a Record of Decision (ROD).

Record of Decision (ROD): The ROD is a document prepared by a Federal agency which identifies the following: (1) The decision and the alternatives considered within the range of alternatives addressed in the Final EIS; (2) The alternative considered to be environmentally preferable; (3) The factors that were considered (i.e. national policy, technical considerations, Reclamation's statutory mission and authorities, etc.) with respect to the alternatives; (4) A summary of environmental commitments and mitigation measures; (5) A listing of monitoring and enforcement programs established to ensure that mitigation measures are accomplished; and (6) Substantive comments received on the final EIS. The ROD also includes a discussion of the environmentally preferred alternative and, if it is not selected as the preferred alternative, the reasons why.

WHY NOT AN EIS?

At this time, Reclamation is preparing a draft EA. The preparation of an EIS would be warranted if, at any time during the preparation of the EA, Reclamation determines there are sufficient factual disputes or significant environmental impacts.



COOPERATING AGENCIES

The concept of cooperating agencies, entities that assist the lead Federal agency during the NEPA analysis, is identified in the NEPA implementing regulations (40 CFR 1501.6). To assist in moving the process forward, Reclamation invited cooperating agencies to participate in the NEPA process. By sharing information with cooperating agencies during the EA preparation, and requesting their review and expertise, we hope to identify many of the NEPA issues early in the process. A cooperating agency is expected to participate in scoping meetings and conference calls, make staff available to develop information, prepare environmental analysis as requested, and review and comment on the preliminary draft EA prior to it being released for public comment. Reclamation has presented the opportunity to be a cooperating agency only to those covered by the CFR regulations which state that the offer be extended only to other Federal, state, and county agencies which have jurisdiction by law and/or special expertise with respect to any environmental issue which will be addressed in the NEPA compliance document. Therefore, the opportunity to be a cooperating agency has not been offered to organized special interest groups or the Ainsworth Irrigation District (AID), the title transfer proponent.

The following have agreed to become cooperating agencies: U.S. Fish and Wildlife Service, U.S. Forest Service, National Park Service, Nebraska Game and Parks Commission, Nebraska Department of Environmental Quality, Nebraska Department of Natural Resources, Middle Niobrara Natural Resource District, Niobrara Council, and Cherry County.

WHAT'S NEXT?

When the draft EA is completed, it will be advertised in the media and released to the public for a 30-day comment period. Once the comment period has closed, all comments will be considered

and “substantive” comments (as defined in 40 CFR 1503) will be addressed. Following the end of the comment period, the EA will be finalized and a FONSI will be signed, unless Reclamation determines that an EIS must be prepared. No action can be taken until there is a final decision document executed (a FONSI, or a ROD if an EIS is prepared).

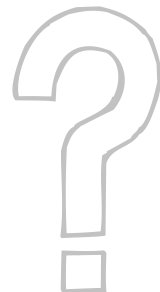
IS TITLE TRANSFER A DONE DEAL?

No it isn't. The possibility of the transfer is still being studied. Keep in mind that whatever environmental document is ultimately prepared, it is simply a “disclosure” document concerning the environmental effects. It is one piece of the process. The NEPA compliance document provides information that is used in decision making. As we have discussed with you in the past, before title can be transferred, legislation must be introduced, approved by Congress and signed into public law.

WHEN WILL YOU KNOW?

We are not setting a specific completion date at this time. We prefer to let the process determine the completion date.

YOUR QUESTIONS AND CONCERNS



Has Reclamation Transferred Other Dams?

Two dams have been transferred through Reclamation's title transfer program -Palmetto Bend Dam in Texas and Sherman Dam in Nebraska.

Will the present people continue to operate the Water's Edge and concession at Merritt Reservoir?

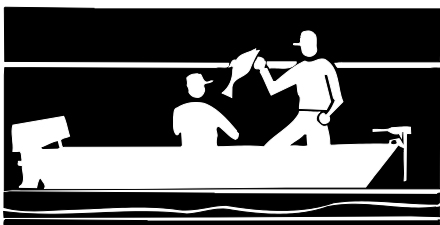
The lease for the operation of the marina and restaurant is with the Nebraska Game and Parks Commission (Commission), not with Reclamation.

Will these types of violations be corrected before title transfer? (In reference to information that the septic tank at the Merritt Trading Post is under a DEQ violation and allowing sewage into the lake).

On June 3, 2002, the Department of Environmental Quality (DEQ) determined that the Merritt Trading Post's existing septic system was a "failed system." The DEQ informed the marina owners that wastewater would not be permitted to flow into the drain field. Therefore, until a new septic system was installed, all wastewater was to be pumped from holding tanks and hauled off site to an appropriate treatment facility. On August 26, 2002, the DEQ issued a one-year permit for the construction of a new onsite wastewater treatment system. A subsequent extension was given through May 2004 with the understanding that a new system be in place and operational prior to the start of the 2004 season.

What authority do they have to inspect the area and facilities? (In reference to the concession at Merritt Reservoir being reported to EPA for violations).

The recreation and wildlife lands at Merritt Reservoir are owned by the United States and the general public has access to these lands for recreation and wildlife activities. If any individual observes a situation that might be considered a public health or safety risk, they should report it to Reclamation, the Commission, or the proper state agency.



UPDATE.....UPDATE...

NEW NKAO AREA MANAGER



Since we last communicated with you we have had a change in Area Managers here at NKAO. Our previous manager, Fred Ore, left to take the position of the Bureau of Reclamation's Deputy Director of Operations, in

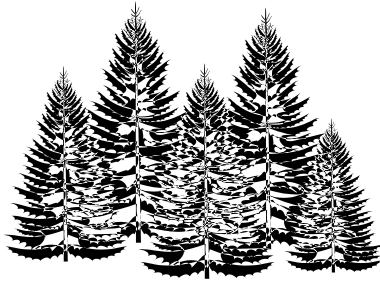
Washington, D.C. We are pleased to share the news with you that our new manager Alice Johns is now on deck here in Grand Island. Ms. Johns is a native of central Illinois. She has a BS degree in watershed science from Colorado State University. In 1997, she joined Reclamation in Loveland, Colorado, where she served as the Resources Manager for 7 years. In that position she has overseen water rights, planning and water scheduling, water-related contracts and repayment, environmental compliance, integrated pest management, land and recreation resources management, cultural resources, and the water conservation field services program associated with the Colorado-Big Thompson Project in north-central Colorado and the Fryngpan-Arkansas Project in south-central Colorado.

HYDROPOWER

We have received correspondence from many of you concerning the potential for the future development of hydropower facilities on the reservoir. We have confirmation from the U.S. Federal Energy Regulatory Commission that Symbiotics LLC has withdrawn its preliminary permit #12201 for developing hydropower at Merritt Dam.

FOREST SERVICE WITHDRAWN LANDS

A portion of Merritt Reservoir and the adjacent uplands are located within the boundary of the Samuel R. McKelvie National Forest.



These lands are referred to as “withdrawn lands.” What this means is that in the mid-1960's Reclamation withdrew approximately 1,120 acres of land in the Samuel R. McKelvie National Forest for the construction, operation, and maintenance of Merritt Dam and Reservoir. The AID has indicated that they are not seeking title to the 1,120 acres of withdrawn lands.

CULTURAL RESOURCES

Congress has passed a number of laws to protect cultural resources on public land. The most prominent law, the National Historic Preservation Act (NHPA), was passed in 1966 to protect historical sites from being destroyed by federal projects. The law requires federal agencies to inventory all cultural resources on their land and projects, and evaluate them for historical significance on both local and national levels. If these resources are determined to have a certain level of significance and will be affected by a federal action, then the agency must consult with certain state and federal agencies, Native American Tribes and other interested parties, before proceeding. This consultation usually results in an agreement to either protect the resource from any damage or implement mitigation measures. It has been determined that title transfer is a federal action which could have an adverse effect on cultural resources. Adverse effects could include diminishing the integrity of a historic property's location, design, setting, materials, workmanship, feeling, or association. Under Section 106 of NHPA (as amended), the Advisory Council on Historic Preservation must be afforded an opportunity for comment on Federal, federally assisted, or federally licensed undertakings that may affect cultural resources listed on, or eligible

for listing, on the National Register of Historic Places. The inventory is being conducted by the University of Nebraska State Museum under a cooperative agreement with Reclamation. Following this study, Reclamation will consult with the Nebraska State Historic Preservation Office and Native American Tribes.

DETERMINING THE VALUE OF A PROJECT

Valuation is based on the U. S. Government recovering the full capital investment expended to build the facilities. Reclamation will determine a base value for the Federal facilities and related assets proposed for transfer. The base value is defined as the value of the assets being transferred (including facilities, lands, and other related assets) as if they were continuing under Federal control. This valuation assumes that the new owner would: (1) receive all remaining revenues due the Federal Government for repayment of the capital costs of the facilities being transferred, (2) receive all other Federal revenues from the assets; (3) be responsible for funding operation and maintenance of all aspects of the project; and (4) bear all liability associated with ownership and operation of the transferred facility.

The base value for the facilities proposed for transfer will be based on the present value of all future Federal revenue for the assets being transferred, including: water revenues, aid to irrigation, and revenues from water service and repayment contracts and their renewals. When only certain project features are being transferred, the future revenue will be adjusted accordingly. The revenue is discounted to present worth using Treasury yield rates current at the time of the transaction. Adjustments are then made to the base value, up or down, based on conditions that will be altered in the foreseeable future after title is transferred compared with the conditions prior to the transfer. Such altered conditions may include reduction in costs to the Government such as elimination of the annual Payment in Lieu of Taxes to local taxing authorities, or an adjustment in base value to reflect the value of assets not included in the capital costs of the project.

THE PUBLIC VOICE

It is the Department of the Interior's policy to afford all interested or affected parties and the general public an opportunity to provide input into the decision-making process. We have previously asked for and documented your input on NEPA-related issues at public meetings and by mail. A summary of all public comments can be accessed on Reclamation's internet site at <http://www.usbr.gov/gp/>

We welcome your input at any time, as we continue to study the proposed title transfer. If you will hang in there with us throughout the process we will provide you background information and progress reports to help you better understand the NEPA process and the proposed title transfer. We hope this information will help you provide input to the NEPA process. Your presence at public informational sessions and your comments on NEPA documents, such as the upcoming EA, are a valuable asset for Reclamation.

If you have any comments or need further information, please let us know.

If you are not currently receiving the *Ainsworth Bulletin* but would like to get on the mailing list, or desire to be removed from the list, please contact Judy O'Sullivan, Public Involvement Specialist for the Bureau of Reclamation, PO Box 1607, Grand Island, NE 68802 or call 308-389-4622, ext. 211.